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## Maryland DEPARTMENT OF PLANNING MARYLAND HISTORICAL TRUST

### **Frequently Asked Questions: Existing Easement Property Owners**

#### **What needs to be reviewed?**

**Answer:** MHT easements typically prohibit the owner from demolishing or making alterations to the property (interior, exterior, and the grounds) without prior written approval from the Director of the Maryland Historical Trust. The majority of the easements require approval for all construction, including reconstruction, improvement, enlargement, painting and decorating, alteration, demolition, maintenance or repair of any structure or works as well as any ground disturbance. If you are unsure, please call or email and ask the Easement Administrator!

#### **Can you recommend a good contractor/consultant to perform the work?**

**Answer:** The MHT does not maintain an up-to-date list of contractors or crafts people. However, the Maryland Historic Restoration Contractor Directory located on The Maryland Association of Historic District Commissions website <http://mahdc.org/contractor-directory/> and Preservation Maryland's list of preservation service providers located on the Preservation Maryland website <http://preservelist.org/> are great resources to find professionals with historic building experience. Additionally, easement staff is always willing to review scopes of work attached to easement applications to ensure that contractors are specifying appropriate methods and materials.

#### **Who can submit a Change/Alteration Application?**

**Answer:** The owner *or* authorized contact for an Easement property may submit an Application. If you are a long-term lease tenant please have the owner provide written authorization of their approval of the proposed work.

#### **Is there an application review fee?**

**Answer:** No. One of the many benefits of being an Easement property is free advice from our Easement Committee, a group of experts in the fields of building conservation, architectural history, archeology, etc. No fee is associated with the required review of all changes or alterations.

### **What do I need to provide in my Application?**

**Answer:** To assist the Easement Committee in its review, please include a completed [Application](#) form with an original signature, as well as any plans, drawings, and photographs.

### **How should the Application packet be submitted?**

**Answer:** Applications should be attached with a binder clip or rubber band. No folders or binders, please.

### **I mailed my application...did you receive it?**

**Answer:** If you wish to confirm that MHT has received your Application, MHT recommends that you use a courier that tracks its packages or use USPS Certified Mail/Return Receipt requested.

### **How long will it take MHT to process my application?**

**Answer:** Applications are reviewed by the Easement Administrator on a first-come, first-served basis. MHT's review period may be longer or shorter, depending on the volume of Applications, the complexity of the project, and the completeness and clarity of the Application. MHT will contact you if there are questions about your application or if you will be required to provide additional information.

### **How long does a review take?**

**Answer:** The procedures for review are determined by the specific Deed of Easement, but most are required within 45 days. The "clock" begins when the Easement Administrator deems an Application "complete" for Easement Committee review.

### **I submitted an Application and I want to attend the meeting; may I?**

**Answer:** The Easement Committee is not a "public body" as defined under the State Open Meetings Act (State Government Article, § 10-502(h), Annotated Code of Maryland). Its meetings are not open sessions and the Open Meetings Act does not entitle the general public to attend. If deemed necessary, the Easement Administrator will invite Applicants to attend the Easement Committee meeting and present additional information.

### **What is the Easement Committee?**

**Answer:** The [Maryland Historical Trust's Easement Committee](#) is an employee staffed advisory board consisting of architectural historians, archeologists, technical and material specialists who review and make recommendations to the Director regarding changes to easement properties. The Committee meets every [three weeks](#) to review proposed modifications to easement properties and to make recommendations to the Director.

### **What guidelines does the Easement Committee use when reviewing Applications?**

**Answer:** The Easement Committee determines whether the following conditions are met:

- the request is consistent and compatible with the intent and purposes of the original easement terms;
- the request is in conformance with the [Secretary of the Interior's Standards for the Treatment of Historic Properties \(36 CFR Part 68\)](#);
- the requested alteration is permitted under current law; and
- the owner can demonstrate to the satisfaction of the Easement Committee that the alteration will increase or prolong the protection, maintenance, and useful life of the property.

### **I really need my project to be approved by the Director; do you have more specific guidelines I can follow?**

**Answer:** Unfortunately, no. MHT holds easements on a wide variety of properties in all parts of the State, making it nearly impossible for the Trust to develop design guidelines that would be relevant to all of our easement properties. Also, the terms of each easement are different, meaning that the specific requirements for alterations to easement properties vary property by property. The Secretary of the Interior's Standards are intended to be flexible and apply to a wide variety of building types and accommodate different project goals. For this reason, the MHT considers each project individually. With enough advance time, it is possible to discuss the project with Easement staff and receive recommendations. Owners may also submit conceptual plans for review and conceptual approval at various stages of their project.

### **You've had the Easement Committee meeting; when can I expect an answer?**

**Answer:** The purpose of the Easement Committee is to act as an advisory board to the Director. Its decisions are recommendations to the Director, who will make the final decision per the Deed of Easement stipulations. The Director's decision will be issued to the Applicant by letter within the length of time specified in the Deed of Easement.

**My letter included recommendations from the Easement Committee; what if I don't understand their requirements?**

**Answer:** If your letter included recommendation(s) from the Easement Committee for a future submittal (perhaps providing recommendations on a denied Application) the recommended changes are avenues the Committee would like to see explored and/or could envision being approvable. As always, if the recommendations need clarification please contact the Easement Administrator.

**I've received the Director's letter and I don't like my answer; may I resubmit?**

**Answer:** Once the Director has made her decision on an Application and scope of work, the decision is **final**. A request for approval of work which is substantially identical to a previously rejected request may not be resubmitted within a period of one year after the rejection. Only in cases where the applicant is able to present significant new information, as determined by the Committee, may an application be resubmitted.

**Surely, I can appeal a decision?!**

**Answer:** In the event that an application is denied, the applicant may appeal this decision to the *MHT Board of Trustees*. Please see [Procedures for Appeals and Requests for Reconsideration by the MHT Board of Trustees](#) for more information on appealing a decision regarding a preservation Easement property.

**Oops! I forgot to get permission; now what?**

**Answer:** Contact Easement staff to inform them of the completed work. Please provide before and after documentation of the unapproved change or alteration. If necessary, Easement staff may request a site visit. The Director will then determine if the work was done in accordance with the Secretary of the Interior's *Standards and Guidelines for Historic Properties* or if the property is in Breach of Easement.

**What is a Breach of Easement and what does it mean?**

**Answer:** Easements are legally binding agreements; therefore, altering a property without approval from MHT may have financial and/or legal consequences for property owners. Should the conditions of the Deed of Easement be breached, the binding agreement gives the Trust authority to exercise any or all of the following remedies:

- institute suit(s) to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction;
- demand that the Property be restored promptly to the condition required by the Easement; and
- enter upon the Property, correct any breach, and hold Grantor responsible for the resulting cost.

### **Is there a specific time frame in which the project must be started?**

**Answer:** Yes; the Director's approval is only valid for six months. If your project has not yet begun or is not fully complete, please request an extension.

### **How do I request an extension?**

**Answer:** The Easement Administrator will grant an extension of previously approved work upon written request (letter or email). The request should include the reason for the delay, and a copy of the Director's letter or date of the original approval. An extension may be granted as long as nothing has changed from the approved scope. If any part of the scope has changed a new Application must be submitted.

**\*\*Please note that approvals expired beyond a reasonable timeframe may require a new and full review.\*\***

### **I have a joint easement with MET; how do I submit an Application?**

**Answer:** Fill out the MHT Changes/Alterations Application and the relevant supplemental materials. Submit the packet to both MHT and MET concurrently. MHT and MET will review the material and have a joint review by the Committee and Board. The MHT Easement Committee meets every three weeks and the MET Board meets monthly.

## **SAMPLE APPLICANT QUESTIONS**

### **May I replace my windows?**

**Answer:** Maybe. While the MHT Easement Committee will hear requests to replace historic windows, please keep the following points in mind:

- MHT requires windows to be repaired and maintained first and foremost.

- MHT, not the applicant, will determine whether or not windows are deteriorated beyond repair.
- Replacement windows MUST be “in kind” and match the appearance, size, design, proportions, and profiles of the existing historic windows.
- Window repair or replacement must not have a negative impact on adjacent historic fabric, including trim or other features.

**My property has vinyl siding installed by a previous owner. Will MHT require I remove it and replace the original siding?**

**Answer:** No. MHT cannot require you go back to a state that existed prior to easement recordation, but you will be required to maintain the vinyl siding in good condition and submit a Change/Alteration application for review and approval if and when you wish to change the exterior material, prior to undertaking the work.

**I hate my vinyl siding and I want to change the material to cement board; is that approvable?**

**Answer:** While every review is done on a case by case basis using the Deed of Easement and details of the individual historic property, some general guidance is given for the request to introduce new materials on a property under Deed of Easement. An Applicant can replace what is there (as of the date of recordation) i.e. vinyl siding with vinyl siding, or the Applicant can return the exterior fabric back to the original material (with documentation of the original material) i.e. vinyl siding to wood weatherboard, clapboard, shingles, etc. The introduction of new materials not historically located on the building is not encouraged.

**My easement covers only the exterior and I want to build a new shed. Do I still need to come to the Committee?**

**Answer:** Perhaps. If the proposed shed would be located within the Deed of Easement boundaries, yes, the proposed work would need to come before the Committee. If you are unsure if the work needs to come before the Committee, please contact the Easement Administrator.

**I want to repoint my brick; do I need the Director’s approval?**

**Answer:** Yes. While some may consider repointing of masonry “routine maintenance” MHT reviews all requests to repoint brick in order to ensure that a proper mortar formula is used. Introducing different elements, such as using Portland cement mortar to repoint historic brick,

has a long-lasting detrimental impact. If you have any questions about mortar or repointing please contact Easement program staff.